

298647

2021-105-T

Carolina Emergency Medical Services, LLC

104 Construction Way

Anderson, SC 29625

864-401-8228

Please find attached to this fax/email the completed application, and the articles of organization. With the loss of EMTS in South Carolina, and not enough to replenish the market we have elected to move toward stretcher vans and other means to help accommodate the needs of the citizens of South Carolina. If there is a way to expedite this application, it will be much appreciated. Thank You for your time.

James Hayes 03/18/2021

James Hayes

RECEIVED

MAR 23 2021

PSCSC
Clerks Office

js

STATE OF SOUTH CAROLINA

(Caption of Case)

Example: Application for a Class C Charter Certificate from
John Doe dba Doe's Limo

Application for a Class C Stretcher Van Certificate
from
Carolina Emergency Medical Services, LLC

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

TRANSPORTATION COVER SHEET

DOCKET

NUMBER: _____ - _____ - _____

If this is your first time filing an application with the PSC, you will not have a Docket Number. The Commission will assign one to you. If you have filed with the Commission before, a Docket Number was assigned and should be entered above.

(Please type or print)

Submitted by: Billy James Hayes

Telephone: 864-401-8228

Address: 104 Construction Way

Fax: 864-670-5046

Anderson, SC 29625

Other:

Email: jhayes@carolinaems.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

NATURE OF ACTION (Check all that apply)

- | | |
|---|--|
| <input type="checkbox"/> Application - Class A/A Restricted | <input type="checkbox"/> Request for Name Change on Certificate |
| <input type="checkbox"/> Application - Class C Taxi | <input type="checkbox"/> Request to Amend Scope of Authority |
| <input type="checkbox"/> Application - Class C Charter | <input type="checkbox"/> Request to Amend Tariff (rate increase, etc.) |
| <input type="checkbox"/> Application - Class C Charter Bus | <input type="checkbox"/> Request to Amend Passenger Limit |
| <input type="checkbox"/> Application - Class C Non-Emergency | <input type="checkbox"/> Request |
| <input checked="" type="checkbox"/> Application - Class C Stretcher Van | <input type="checkbox"/> Exhibit |
| <input type="checkbox"/> Application - Class E Household Goods | <input type="checkbox"/> Late-Filed Exhibit |
| <input type="checkbox"/> Application - Class E Hazardous Waste | <input type="checkbox"/> Letter |
| <input checked="" type="checkbox"/> Application | <input type="checkbox"/> Proposed Order |
| <input type="checkbox"/> Request for Extension to Comply with Order | <input type="checkbox"/> Publisher's Affidavit |
| <input type="checkbox"/> Request for Order Granting Authority to Obtain a Certificate of Public Convenience and Necessity to be Rescinded | <input type="checkbox"/> Reservation Letter |
| <input type="checkbox"/> Request for Cancellation of Certificate | <input type="checkbox"/> Response |
| <input type="checkbox"/> Request for Suspension | <input type="checkbox"/> Return to Petition |
| <input type="checkbox"/> Request for Reinstatement | <input type="checkbox"/> Other: _____ |

If you have any questions about this form, please contact the PUBLIC SERVICE COMMISSION at 803-896-5100.

PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA
101 Executive Center Drive, Suite 100
Columbia, South Carolina 29210

Phone: (803) 896-5100 Fax: (803) 896-5199

APPLICATION FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR
OPERATION OF MOTOR VEHICLE CARRIER

CLASS C - STRETCHER VAN

Date: 03/18/2021

Application is hereby made for a Certificate of Public Convenience and Necessity, in accordance with the provision of S.C. Code Ann., § 58-23-10, et seq. (1976), and amendments thereto.

1. Carolina Emergency Medical Services, LLC
Name under which business is to be conducted (corporation, partnership, or sole proprietorship, with or without trade name.)

104 Construction Way Anderson, SC 29625

Street Address of Applicant

Same As Above

Mailing Address of Applicant (if different from street address)

864-401-8228

Phone

864-670-5046

Fax

jhayes@carolinaems.com

Email Address

2. If the Applicant is an LLC or a corporation, a copy of the Certificate of Existence from the South Carolina Secretary of State and the Articles of Incorporation must be attached. (If incorporated outside of SC, attach South Carolina Secretary of State "Foreign Corporation" Certificate.)

3. Select Entity Type: (Check one)

☒ Individual Owner/Sole Proprietorship

☐ Partnership - List names and address of all person having an interest in the business.

☐ Corporation - List names and addresses of two principal officers.

Billy James Hayes

Applicant is financially able to furnish the services as specified in this application and submits the following statement of assets and liabilities.

Financial Statement

Applicant's assets and liabilities are as follows:

<u>Assets:</u>		<u>Liabilities:</u>	
Value of Real Estate	<input type="text" value="0"/>	Mortgage/Loan on Real Estate	<input type="text" value="0"/>
Value of Motor Vehicles	<input type="text" value="100,000"/>	Loans Owed on Motor Vehicles	<input type="text" value="0"/>
Cash on Hand	<input type="text" value="10,000"/>	Business/Other Loans Owed	<input type="text" value="0"/>
Cash in Bank	<input type="text" value="10,000"/>	Other Liabilities or Debts	<input type="text" value="0"/>
Value of Other Assets and Equipment	<input type="text" value="60,000"/>	Total Liabilities	<input type="text"/>
Total Assets	<input type="text" value="180,000"/>		

INSTRUCTIONS:

1. "Value of Real Estate" means the actual or estimated market value of any real property/buildings owned by the Company/Business Applying for a Certificate.
2. "Mortgage/Loan on Real Estate" means the outstanding balance on any Mortgage, Equity Line or other Loan secured by the Real Estate listed in Item 1.
3. "Value of Motor Vehicles" means the actual or fair estimated value of any moving vans, trucks or other vehicles owned by the Company/Business Applying for a Certificate.
4. "Loans Owed on Motor Vehicles" means the outstanding balance on any loans or liens on the vehicles listed in Item 3.
5. "Cash on Hand" is the total of actual cash held by the Company/Business applying for a Certificate on the day this form is filled out.
6. "Business/Other Loans Owed" means the outstanding balance on any small business loan or other unsecured loan made by a person, bank or business to the Business/Company applying for a Certificate.
7. "Cash in Bank" means the current balance in checking accounts, savings accounts or the like in the name of the Company/Business applying for a Certificate. Do not include retirement accounts or personal bank account balances.
8. "Value of Other Assets and Equipment" should include the actual or estimated value of items such as office equipment (computers/furnishings), moving equipment (hand trucks/blankets/strapping), and trailers.
9. "Other Liabilities or Debts" means specific amounts/balances which the Company/Business applying for a Certificate knows that it owes to other persons or companies; for example Franchise Fees. This does NOT include regular bills such as electricity bills, security system costs, insurance, salaries, etc.

PROPOSED RATES AND CHARGES FOR SERVICE

Proposed Rates and Charges:

Ambulatory \$6.67 (0-3) \$10.26 (4-6) \$13.80 (7-10) \$1.40 Per mile after 10 miles
 Wheelchair \$14.86 (0-3) \$18.18 (4-6) \$23.05 (7-10) \$1.41 Per mile after 10 miles

Stretcher

\$175 base rate
 + \$2.00 per
 mile

Requested Scope of Authority: Check all counties in which you are requesting permission to operate.
 You will only be allowed to operate in those counties checked below. You may request "Statewide" authority if you intend to operate in all counties in South Carolina.

<input checked="" type="checkbox"/> Abbeville	<input checked="" type="checkbox"/> Cherokee	<input type="checkbox"/> Florence	<input type="checkbox"/> Lee	<input checked="" type="checkbox"/> Saluda
<input type="checkbox"/> Aiken	<input type="checkbox"/> Chester	<input type="checkbox"/> Georgetown	<input type="checkbox"/> Lexington	<input checked="" type="checkbox"/> Spartanburg
<input type="checkbox"/> Allendale	<input type="checkbox"/> Chesterfield	<input checked="" type="checkbox"/> Greenville	<input type="checkbox"/> Marion	<input type="checkbox"/> Sumter
<input checked="" type="checkbox"/> Anderson	<input type="checkbox"/> Clarendon	<input checked="" type="checkbox"/> Greenwood	<input type="checkbox"/> Marlboro	<input type="checkbox"/> Union
<input type="checkbox"/> Bamberg	<input type="checkbox"/> Colleton	<input type="checkbox"/> Hampton	<input checked="" type="checkbox"/> McCormick	<input type="checkbox"/> Williamsburg
<input type="checkbox"/> Barnwell	<input type="checkbox"/> Darlington	<input type="checkbox"/> Horry	<input checked="" type="checkbox"/> Newberry	<input type="checkbox"/> York
<input type="checkbox"/> Beaufort	<input type="checkbox"/> Dillon	<input type="checkbox"/> Jasper	<input checked="" type="checkbox"/> Oconee	
<input type="checkbox"/> Berkeley	<input type="checkbox"/> Dorchester	<input type="checkbox"/> Kershaw	<input type="checkbox"/> Orangeburg	<input type="checkbox"/> Statewide
<input type="checkbox"/> Calhoun	<input checked="" type="checkbox"/> Edgefield	<input type="checkbox"/> Lancaster	<input checked="" type="checkbox"/> Pickens	
<input type="checkbox"/> Charleston	<input type="checkbox"/> Fairfield	<input checked="" type="checkbox"/> Laurens	<input type="checkbox"/> Richland	

DESCRIPTION OF EQUIPMENT

You are **not** required to own a vehicle to file an application. However, prior to being issued a certificate by ORS, you will be required to have obtained a vehicle.

MAKE	YEAR & MODEL	VIN#	EMPTY WEIGHT	WHEEL- CHAIR LIFT
2011	Chevrolet G4500	1GB6G5CL3B1150629	4500	

INSURANCE QUOTE

This form **MUST BE COMPLETED.**

The insurance quote must be complete, listing current insurance premiums. At the discretion of the Commission, a copy of current insurance policies may be required. Do not provide a copy of insurance policies unless requested. You will not be required to purchase insurance until your application has been approved and an order has been issued by the PSC. THIS IS ONLY A QUOTE.

The following insurance quote is for:

Carolina Emergency Medical Services, LLC

Name of Applicant

104 Construction Way, Anderson ,SC 29625

Address of Applicant

Amount of Premium:

Liability Insurance \$ \$14,924

The above quoted premium is for a term of 12 months.

Minimum Limits - Bodily injury and property damage limits will not be less than the following:

		Limits Quoted
Liability Combined Each Occurance	\$ 1,000,000	\$1,000,000
Medical Payments per Person	\$ 1,000	\$5,000.00

CFC UNDERWRITING LIMITED

Name of Insurance Company

575 5th AVE 14th Floor New York, New York 10017

Home Office Address of Company

I, the Applicant, am familiar with the Commission's Rules and Regulations relating to insurance requirements and the above quote meets the minimum insurance limits prescribed. The insurance company making this quote is authorized by the South Carolina Department of Insurance to do business in South Carolina.

NOTICE:

If you wish to self-insure your motor vehicles for liability and property damage, you must comply with S.C. Code Ann. Sections 56-9-60 and 58-23-910. For more information, contact the Department of Motor Vehicles at (803) 896-8457 or (803) 896-9903.

If you wish to apply as a self-insured for worker's compensation coverage in South Carolina you may do so with the South Carolina Worker's Compensation Commission (WCC) provided that you will be able to: 1) post a surety bond or letter-of-credit with the WCC for a minimum of \$500,000, 2) agree to pay a yearly self-insurance tax, and 3) agree to pay an annual assessment to the South Carolina Second Injury Fund. For more information, contact the WCC Self-Insurance Division at (803) 737-5712 or on the web at www.wcc.state.sc.us/self-insurance.

Exhibit Fit, Willing, and Able (FWA)

Carolina Emergency Medical Services, LLC

Name

1. Does Applicant have a Safety Rating from the U.S.D.O.T.?

- ☒ Yes ☐ No ☐ Pending (Submit when received.)

If Yes, indicate rating below and provide copy.

- ☒ Satisfactory ☐ Conditional ☐ Unsatisfactory

2. Have any of Applicant's drivers or vehicles been placed "out of service" by Transport Police safety officers in the past twelve (12) months?

- ☐ Yes ☒ No

3. Are there currently any outstanding judgments against the Applicant?

- ☐ Yes ☒ No

If Yes, list judgements here:

4. Is Applicant familiar with all statutes and regulations, including safety regulations and governing for-hire motor carrier operations in South South Carolina, and does Applicant agree to operate in compliance with these statutes and regulations?

- ☒ Yes ☐ No

5. Is Applicant aware of the Commission's insurance requirements and the insurance premium costs associated therewith?

- ☒ Yes ☐ No

Exhibit on Driver and Assistant Driver Qualifications

1. Applicant has read and understands Commission Regulation 103-133(8).

☒ Yes ☐ No

2. Applicant has on file a certified copy of the driver's and assistant driver's three (3) year driving records issued by the SC DMV and such records from the DMV of the state in which the driver or the assistant driver is or has been domiciled for such period.

☒ Yes ☐ No

3. Applicant has obtained and retained the criminal history background checks from the state where the driver and assistant driver live.

☒ Yes ☐ No

4. Applicant understands that all drivers and assistant drivers must have in their possession at the time of such operation valid drivers' licenses issued by the SC DMV or the current state of residence of the driver or assistant driver.

☒ Yes ☐ No

5. Applicant understands that all stretcher van certificate holders are prohibited from employing drivers and assistant drivers who are registered, or required to be registered, as sex offenders with the South Carolina State Law Enforcement Division or any national registry of sex offenders.

☒ Yes ☐ No

6. Applicant understands that all stretcher van drivers and assistant drivers must possess a current Red Cross First Aid certification or an American Safety and Health Institute certification, or certification from a program that meets or exceeds the certification standards of the Red Cross First Aid or the American Safety and Health Institute, and Adult Cardiopulmonary Resuscitation (CPR) certification.

☒ Yes ☐ No

7. Applicant understands that the driver's and assistant driver's Red Cross First Aid certification must be renewed every three (3) years and the Adult CPR certification must be renewed annually.

☒ Yes ☐ No

8. Applicant understands that an individual must not be transported in a stretcher van if the individual has a written statement from a licensed physician prohibiting transportation in a stretcher van.

☒ Yes ☐ No

PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA
101 EXECUTIVE CENTER DRIVE, SUITE 100
COLUMBIA, SOUTH CAROLINA 29210

Applicant is familiar with the provision of S.C. Code Ann. §58-23-10, et seq.(1976), and amendments thereto, and R.103-100 through R.103-241 of the Commission's Rules and Regulations for Motor Carriers (S.C. Code Ann. Regs., 1976), and R.38-400 through R.38-503 of the Department of Public Safety's Rules and Regulations for Motor Carriers (Volume 2, S.C. Code Ann., 1976) and amendments thereto, and hereby promises compliance therewith.

S.C. Code Ann. Section 58-3-250 states, in part, that every final order of the Commission must be served by electronic service, registered or certified mail, upon the parties to the proceeding or their attorneys.

Please check the applicable box:

- ☒ The Applicant AGREES to receive future Commission orders related to the Applicant's authority in South Carolina through the Commission's eService System. The Applicant authorizes the Commission to serve its orders by using the e-mail address as it appears on page one of this Application. To sign up for eService notifications, please visit www.psc.sc.gov to create a My DMS account.
- ☐ The Applicant DOES NOT AGREE to receive future Commission orders related to the Applicant's authority in South Carolina through the Commission's eService System.

The Applicant for the Certificate of Public Convenience and Necessity as set forth in the foregoing, swear or affirm that all statements contained in the above application are true and correct.

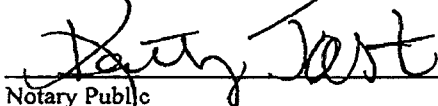


Applicant's Signature

Owner/CEO
Title of Applicant (e.g. President, Owner, etc.)

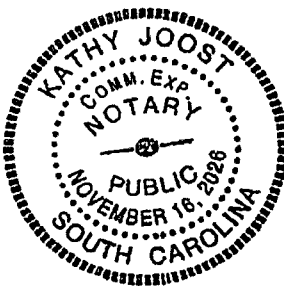
STATE OF SOUTH CAROLINA)
COUNTY OF Anderson)

SWORN TO BEFORE ME
This 18 day of March, 2021.



Notary Public

Commission Expires Nov. 16 2026



Print Application

Business Entities Online

File, Search, and Retrieve Documents Electronically

Carolina Emergency Medical Services LLC

Corporate Information

Entity Type: Limited Liability Company

Status: Good Standing

Domestic/Foreign: Domestic

Incorporated State: South Carolina

Important Dates

Effective Date: 02/13/2020

Expiration Date: N/A

Term End Date: N/A

Dissolved Date: N/A

Registered Agent

Agent: Billy Hayes

Address: 1306 Northampton Rd
Anderson, South Carolina 29621

Official Documents On File

Filing Type	Filing Date
Articles of Organization	02/13/2020

Filing ID: 200213-1457140

Filing Date: 02/13/2020

**STATE OF SOUTH CAROLINA
SECRETARY OF STATE**

**ARTICLES OF ORGANIZATION
Limited Liability Company – Domestic**

The undersigned delivers the following articles of organization to form a South Carolina limited liability company pursuant to S.C. Code of Laws Section 33-44-202 and Section 33-44-203.

1. The name of the limited liability company (Company ending must be included in name*)

Carolina Emergency Medical Services LLC

*Note: The name of the limited liability company must contain one of the following endings: "limited liability company" or "limited company" or the abbreviation "L.L.C.", "LLC", "L.C.", "LC", or "Ltd. Co."

2. The address of the initial designated office of the limited liability company in South Carolina is
1306 Northampton Rd

(Street Address)

Anderson, South Carolina 29621

(City, State, Zip Code)

3. The initial agent for service of process is

Billy Hayes

(Name)

(Signature of Agent)

And the street address in South Carolina for this initial agent for service of process is:

1306 Northampton Rd

(Street Address)

Anderson

South Carolina 29621

(City)

(Zip Code)

4. List the name and address of each organizer. Only one organizer is required, but you may have more than one.

(a)

Billy Hayes

(Name)

1306 Northampton Rd.

(Street Address)

Anderson, South Carolina 29621

(City, State, Zip Code)

Carolina Emergency Medical Services LLC

Name of Limited Liability Company

(b)

(Name)

(Street Address)

(City, State, Zip Code)

5. ☐ Check this box only if the company is to be a term company. If the company is a term company, provide the term specified. _____
6. ☐ Check this box only if management of the limited liability company is vested in a manager or managers. If this company is to be managed by managers, include the name and address of each initial manager.

(a)

(Name)

(Street Address)

(City, State, Zip Code)

(b)

(Name)

(Street Address)

(City, State, Zip Code)

7. ☐ Check this box only if one or more of the members of the company are to be liable for its debts and obligations under Section 33-44-303(c). If one or more members are so liable, specify which members, and for which debts, obligations or liabilities such members are liable in their capacity as members. This provision is optional and does not have to be completed.

8. Unless a delayed effective date is specified, these articles will be effective when endorsed for filing by the Secretary of State. Specify any delayed effective date and time _____.

Carolina Emergency Medical Services LLC

Name of Limited Liability Company

9. Any other provisions not consistent with law which the organizers determine to include, including any provisions that are required or are permitted to be set forth in the limited liability company operating agreement may be included on a separate attachment. Please make reference to this section if you include a separate attachment.

10. Each organizer listed under number 4 must sign.

Billy James Hayes

Signature of Organizer

Date: 02/13/2020

Signature of Organizer

Date: 02/13/2020



INDICATION OF TERMS

REFERENCE NUMBER: CFC\21\2044244
 COMPANY NAME: CAROLINA EMS LLC
 TOTAL PAYABLE: USD13,175.00
 Premium breakdown:
 Errors & Omissions: USD10,000.00
 General Liability: USD2,500.00
 Fee breakdown:
 Errors & Omissions: USD500.00
 General Liability: USD175.00

\$12,500.00 BASE
\$675.00 POLICY FEE
\$150.00 COMPANY FEE
\$799.50 SC SCMMA
\$799.50 SC STATE TAX
\$14,924.00 TOTAL

BUSINESS ACTIVITIES: Non-emergency medical transportation services
 LEGAL ACTION: Worldwide
 TERRITORIAL SCOPE: Worldwide
 RETROACTIVE DATE: 27 Feb 2020
 WORDING: A&M OCC US v3.1
 ENDORSEMENTS: PREMIUM PAYMENT CLAUSE
 POLICYHOLDER DISCLOSURE - NOTICE OF TERRORISM INSURANCE
 COVERAGE
 SANCTION LIMITATION AND EXCLUSION CLAUSE
 ADDITIONAL INSURED ENDORSEMENT
 UNSOLICITED COMMUNICATIONS EXCLUSION CLAUSE
 COMMUNICABLE DISEASES EXCLUSION AND PROPERTY AND BUSINESS
 INTERRUPTION AMENDATORY CLAUSE
 SUBJECTIVITIES: This quote is subject to the following being provided by the stated deadline:
 POLICY PERIOD: 12 months
 DATE OF ISSUE: 26 Feb 2021
 ADDITIONAL NOTES: Optional extended reporting period available for: USD10,250 for 12 months
 Cover under the Terrorism Risk Insurance Act is available for an additional
 premium of USD 250.00.
 Please confirm the following Surplus Lines Licence information is correct for
 this risk: 4872089 Francis G. Johnson,, SC
 SECURITY: Certain underwriters at Lloyd's and other insurers

THIS INDICATION OF TERMS IS ONLY VALID FOR 30 DAYS FROM THE DATE OF ISSUE

PLEASE REFER TO THE FOLLOWING PAGES FOR A FULL BREAKDOWN OF LIMITS, RETENTIONS AND APPLICABLE CLAUSES

LIMITS OF LIABILITY AND DEDUCTIBLES

INSURING CLAUSE 1: ERRORS AND OMISSIONS

SECTION A: PROFESSIONAL LIABILITY

Limit of liability:	USD1,000,000	each and every claim, including costs and expenses
Aggregate limit of liability:	USD3,000,000	including costs and expenses
Deductible:	USD10,000	each and every claim, including costs and expenses

SECTION B: POLLUTION LIABILITY

Aggregate limit of liability:	USD250,000	including costs and expenses
Deductible:	USD10,000	each and every claim, including costs and expenses

SECTION C: COMPUTER VIRUS AND HACKING ATTACK

Aggregate limit of liability:	USD250,000	including costs and expenses
Deductible:	USD10,000	each and every claim, including costs and expenses

INSURING CLAUSE 2: SEXUAL MISCONDUCT & PHYSICAL ABUSE LIABILITY

Limit of liability:	USD1,000,000	each and every claim, including costs and expenses
Aggregate limit of liability:	USD1,000,000	including costs and expenses
Deductible:	USD10,000	each and every claim, including costs and expenses

INSURING CLAUSE 3: CONTRACTUAL LIABILITY

Limit of liability:	USD1,000,000	including costs and expenses
Aggregate limit of liability:	USD3,000,000	including costs and expenses
Deductible:	USD10,000	each and every claim, including costs and expenses

INSURING CLAUSE 4: EMPLOYEE BENEFITS LIABILITY

Aggregate limit of liability:	USD1,000,000	including costs and expenses
Deductible:	USD10,000	each and every claim, including costs and expenses

INSURING CLAUSE 5: GENERAL LIABILITY

Limit of liability:	USD1,000,000	each and every claim, including costs and expenses
Aggregate limit of liability:	USD3,000,000	including costs and expenses
Deductible:	USD10,000	each and every claim, including costs and expenses

INSURING CLAUSE 6: TENANTS' LIABILITY

Aggregate limit of liability:	USD250,000	including costs and expenses
Deductible:	USD10,000	each and every claim, including costs and expenses

INSURING CLAUSE 7: NON-OWNED & HIRED AUTOMOBILE LIABILITY

Limit of liability:	USD100,000	including costs and expenses
Aggregate limit of liability:	USD100,000	including costs and expenses
Deductible:	NIL	each and every claim, including costs and expenses

INSURING CLAUSE 8: MEDICAL EXPENSES

Limit of liability:	USD5,000	including costs and expenses
Deductible:	NIL	each and every claim, including costs and expenses

INSURING CLAUSE 9: LOSS MITIGATION

Aggregate limit of liability:	USD1,000,000	including costs and expenses
Deductible:	USD10,000	each and every claim, including costs and expenses

INSURING CLAUSE 10: COURT ATTENDANCE COSTS

Aggregate limit of liability:	USD100,000	subject to a limit of liability of USD2,000 per day
Deductible:	NIL	each and every claim

INSURING CLAUSE 11: BRAND PROTECTION

Aggregate limit of liability:	USD100,000	including costs and expenses
Deductible:	NIL	each and every claim, including costs and expenses

INSURING CLAUSE 12: INDEMNITY TO MORTGAGEES, LANDLORDS OR LESSORS OF LEASED EQUIPMENT

Limit of liability:	USD1,000,000	including costs and expenses
Aggregate limit of liability:	USD3,000,000	including costs and expenses
Deductible:	USD10,000	each and every claim, including costs and expenses

INSURING CLAUSE 13: COMMERCIAL PROPERTY

NO COVER GIVEN

INSURING CLAUSE 14: BUSINESS INTERRUPTION

NO COVER GIVEN



PREMIUM PAYMENT CLAUSE

ATTACHING TO POLICY
NUMBER: -

THE INSURED: Carolina EMS LLC

WITH EFFECT FROM: -

It is understood and agreed that the following is added to the "Cancellation" CONDITION:

We also reserve the right of cancellation in the event that any amount due to us by you remains unpaid more than 60 days beyond the Inception Date of this Policy. If we exercise this right of cancellation it will take effect from 14 days after the date the written notice of cancellation is issued.

However, if the amount due to us by you is paid in full to us before the notice period expires, notice of cancellation will be revoked.

SUBJECT OTHERWISE TO THE TERMS AND CONDITIONS OF THE POLICY



POLICYHOLDER DISCLOSURE - NOTICE OF TERRORISM INSURANCE COVERAGE

You are hereby notified that under the Terrorism Risk Insurance Act of 2002, as amended ("TRIA"), that you now have a right to purchase insurance coverage for losses arising out of acts of terrorism, as defined in Section 102(l) of the Act, as amended: The term "act of terrorism" means any act that is certified by the Secretary of the Treasury, in consultation with the Secretary of Homeland Security and the Attorney General of the United States, to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property, or infrastructure; to have resulted in damage within the United States, or outside the United States in the case of an air carrier or vessel or the premises of a United States mission; and to have been committed by an individual or individuals, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion. Any coverage you purchase for "acts of terrorism" shall expire at 12:00 midnight December 31, 2027, the date on which the TRIA Program is scheduled to terminate, or the expiry date of the policy whichever occurs first, and shall not cover any losses or events which arise after the earlier of these dates.

YOU SHOULD KNOW THAT COVERAGE PROVIDED BY THIS POLICY FOR LOSSES CAUSED BY CERTIFIED ACTS OF TERRORISM IS PARTIALLY REIMBURSED BY THE UNITED STATES UNDER A FORMULA ESTABLISHED BY FEDERAL LAW. HOWEVER, YOUR POLICY MAY CONTAIN OTHER EXCLUSIONS WHICH MIGHT AFFECT YOUR COVERAGE, SUCH AS AN EXCLUSION FOR NUCLEAR EVENTS. UNDER THIS FORMULA, THE UNITED STATES PAYS 80% OF COVERED TERRORISM LOSSES EXCEEDING THE STATUTORILY ESTABLISHED DEDUCTIBLE PAID BY THE INSURER(S) PROVIDING THE COVERAGE. YOU SHOULD ALSO KNOW THAT THE TERRORISM RISK INSURANCE ACT, AS AMENDED, CONTAINS A USD100 BILLION CAP THAT LIMITS U.S. GOVERNMENT REIMBURSEMENT AS WELL AS INSURERS' LIABILITY FOR LOSSES RESULTING FROM CERTIFIED ACTS OF TERRORISM WHEN THE AMOUNT OF SUCH LOSSES IN ANY ONE CALENDAR YEAR EXCEEDS USD100 BILLION. IF THE AGGREGATE INSURED LOSSES FOR ALL INSURERS EXCEED USD100 BILLION, YOUR COVERAGE MAY BE REDUCED.

THE PREMIUM CHARGED FOR THIS COVERAGE IS PROVIDED BELOW AND DOES NOT INCLUDE ANY CHARGES FOR THE PORTION OF LOSS COVERED BY THE FEDERAL GOVERNMENT UNDER THE ACT.

<input type="checkbox"/>	I hereby elect to purchase coverage for acts of terrorism for the prospective additional premium stated in the quotation provided to me.
<input type="checkbox"/>	I hereby elect to have coverage for acts of terrorism excluded from my policy. I understand that I will have no coverage for losses arising from acts of terrorism.

Policyholder/Applicant's Signature

Date

Print Name

LMA9184
09 January 2020

(Amended)

SANCTION LIMITATION AND EXCLUSION CLAUSE

ATTACHING TO POLICY
NUMBER:

-

THE INSURED:

Carolina EMS LLC

WITH EFFECT FROM:

-

It is understood and agreed that the following EXCLUSION is added to this Policy:

We shall not be deemed to provide any cover nor shall we be liable to pay any claim or loss or provide any benefit under this Policy to the extent that the provision of such cover, payment or benefit shall expose us to any sanction, prohibition or restriction under the United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

SUBJECT OTHERWISE TO THE TERMS AND CONDITIONS OF THE POLICY

ADDITIONAL INSURED ENDORSEMENT

ATTACHING TO POLICY
NUMBER: -

THE INSURED: Carolina EMS LLC

WITH EFFECT FROM: -

It is understood and agreed that the following **CONDITION** is added to this Policy:

Additional Insureds

We will indemnify any **third party** under this Policy as if they were **you**, but only in respect of sums which they become legally obliged to pay (including liability for claimants' costs and expenses) as a result of any **claim** arising solely out of an act, error or omission committed by **you** or on **your** behalf, provided that had the **claim** been made against **you**, then **you** would be entitled to indemnity under this Policy.

Before **we** indemnify any **third party**, they must prove to **us** that the **claim** arose solely out of an act, error or omission committed by **you** or on **your** behalf and fully comply with **CONDITION 1** as if they were **you**.

When this **CONDITION** applies, it will be primary and non-contributory to the **third party's** own insurance but only if **you** and the **third party** have entered into a contract that contains a provision requiring this.

Whilst the **third party** is indemnified under this Policy, any **claim** made by the **third party** against **you** will be treated by **us** as if they were a **third party** and not as a named insured.

SUBJECT OTHERWISE TO THE TERMS AND CONDITIONS OF THE POLICY

Authorised Signatory



CFC Underwriting Ltd



UNSOLICITED COMMUNICATIONS EXCLUSION CLAUSE

ATTACHING TO POLICY
NUMBER: -

THE INSURED: Carolina EMS LLC

WITH EFFECT FROM: -

It is understood and agreed that the following EXCLUSION is added to this Policy:

Unsolicited communications

arising directly or indirectly from any actual or alleged violation of:

- a) the CAN-SPAM Act of 2003 or any subsequent amendments to that Act;
- b) the Telephone Consumer Protection Act (TCPA) of 1991 or any subsequent amendments to that Act; or
- c) any other law, regulation or statute relating to unsolicited communication, distribution, sending or transmitting of any communication via telephone or any other electronic or telecommunications device.

SUBJECT OTHERWISE TO THE TERMS AND CONDITIONS OF THE POLICY

COMMUNICABLE DISEASES EXCLUSION AND PROPERTY AND BUSINESS INTERRUPTION AMENDATORY CLAUSE

ATTACHING TO POLICY
NUMBER: -

THE INSURED: Carolina EMS LLC

WITH EFFECT FROM: -

It is understood and agreed that the following amendments are made to this Policy:

1. Part e) of the BUSINESS INTERRUPTION INSURING CLAUSE is deleted in its entirety.
2. The following DEFINITIONS are added:

"Computer systems" means

all electronic computers including operating systems, software, hardware, microcontrollers and all communication and open system networks and any data or websites wheresoever hosted, off-line media libraries and data back-ups and mobile devices including but not limited to smartphones, iPhones, tablets or personal digital assistants.

"Cyber error" means

any:

- a) unintentional human error in entering, processing or amending electronic data within any **computer systems** or in the upgrading, maintenance or configuration of any **computer systems**; or
- b) application bug, internal network failure, external network failure or hardware failure directly impacting any **computer systems** which renders them incapable of supporting their normal business function.

"Cyber error" does not mean **cyber event**.

"Cyber event" means

any actual or suspected unauthorized access to or electronic attack designed to damage, destroy, corrupt, overload, circumvent or otherwise impair the functionality of any **computer systems**, including denial of service attack, cyber terrorism, hacking attack, Trojan horse, phishing attack, man-in-the-middle attack, application-layer attack, compromised key attack, malware infection (including spyware or ransomware) or computer virus.

3. The following EXCLUSION is added to the GENERAL INSURANCE EXCLUSIONS:

Communicable diseases

arising directly or indirectly out of, or in any way relating to any actual, threat or fear of any pathogen or disease, including any virus, bacterium, parasite or variation of these, which can be transmitted by any means from any organism to another organism and can cause, or have the potential to cause:

- a) damage to human health or welfare; or
- b) physical damage or destruction to tangible property, including the deterioration, loss of use or reduction in value or marketability of the tangible property.

4. The following EXCLUSIONS apply to the COMMERCIAL PROPERTY and BUSINESS INTERRUPTION INSURING CLAUSES:

Cyber events and errors

arising directly or indirectly out of any **cyber event** or **cyber error**.

However, this Exclusion will not apply to fire or explosion directly caused by any **cyber error**, unless the **cyber error** is directly or indirectly caused by any **cyber event**.



Electronic data

for:

- a) any costs incurred to retrieve, restore, rebuild or recover any electronic data or application, including any costs to reconstitute the electronic data or application; or
- b) the actual value of any electronic data or application; or
- c) that part of any financial loss arising out of or attributable to in any way, the loss, loss of use, reduction in functionality, damage or corruption of any electronic data or application.

SUBJECT OTHERWISE TO THE TERMS AND CONDITIONS OF THE POLICY



Allied health & medical professionals

Policy document
United States

PREAMBLE

This Policy is a contract of insurance between you and us. Your Policy contains all the details of the cover that we provide. This Policy consists of and must be read together with the Declarations and any Endorsements. This Policy is not complete unless it is signed and a Declarations page is attached.

The Sections of this policy are identified by **BLUE LINES** across the page with **WHITE UPPER CASE PRINT**. Clause headings in blue **UPPER CASE** print are for information only and do not form part of the cover given by this Policy. Other terms in bold lower case print are defined terms and have a special meaning as set forth in the **DEFINITIONS** section and elsewhere. Words stated in the singular shall include the plural and vice versa.

IMPORTANT: INSURING CLAUSES 1 to 4 provide cover on a claims made basis. Under these **INSURING CLAUSES** a claim must be first made against the company named as the Insured in the Declarations or any subsidiary during the period of the policy and notified to us during the period of the policy to be covered.

In consideration of the Premium and in reliance upon the information that you have provided to us prior to commencement of this insurance and which is deemed to form the basis of this insurance, we agree to provide the cover as set out below.

INSURING CLAUSES

INSURING CLAUSE 1: ERRORS & OMISSIONS

SECTION A: PROFESSIONAL LIABILITY

We agree to pay on your behalf all sums which you become legally obliged to pay (including liability for claimants' costs and expenses) as a result of any claim first made against the company named as the Insured in the Declarations or any subsidiary and notified to us during the period of the policy arising out of injury or loss caused by healthcare services.

We will also pay costs and expenses on your behalf.

SECTION B: POLLUTION LIABILITY

We agree to pay on your behalf all sums which you become legally obliged to pay (including liability for claimants' costs and expenses) as a result of any claim first made against the company named as the Insured in the Declarations or any subsidiary and notified to us during the period of the policy arising out of:

- pollution or contamination of the atmosphere, or of any water, land, buildings or other property;
- any enforcement action in connection with the containment, clean-up, removal or treatment of such pollution or contamination.

We will also pay costs and expenses on your behalf.

SECTION C: COMPUTER VIRUS AND HACKING ATTACK

We agree to pay on your behalf all sums which you become legally obliged to pay (including liability for claimants' costs and expenses) as a result of any claim first made against the company named as the Insured in the Declarations or any subsidiary and notified to us during the period of the policy as a direct result of:

- any third party financial loss arising directly from a hacking attack or virus that has emanated from or passed through your computer systems; or
- any third party financial loss arising directly from their inability to access your computer systems in the way in which you have authorised them to as a direct result of your computer systems' failure or impairment due to a hacking attack or virus; or
- any third party financial loss arising directly from the loss or theft of your data or data for which you are responsible or held to be responsible arising directly from a hacking attack or virus.

We will also pay costs and expenses on your behalf.

INSURING CLAUSE 2: SEXUAL MISCONDUCT AND PHYSICAL ABUSE LIABILITY

We agree to pay on your behalf to the extent the law allows all sums which the company named as the Insured in the Declarations or any subsidiary becomes legally obliged to pay (including liability for claimants' costs and expenses) as a result of any claim first made against you and

notified to us during the period of the policy arising out of sexual misconduct or physical abuse in the course of your business activities. Where an act of sexual misconduct or physical abuse occurs more than once, the sexual misconduct or physical abuse shall be deemed to have occurred when the first occurrence took place.

We will also pay costs and expenses on your behalf.

INSURING CLAUSE 3: CONTRACTUAL LIABILITY

We agree to pay on your behalf all sums which you become legally obliged to pay (including liability for claimants' costs and expenses) as a result of any claim first made against the company named as the Insured in the Declarations or any subsidiary and notified to us during the period of the policy under a contract with a third party where the company named as the Insured in the Declarations or any subsidiary has assumed the tort liability of that third party and arising out of injury, advertising injury, damage, sexual misconduct or physical abuse in the course of your business activities. Where an act of sexual misconduct or physical abuse occurs more than once, the sexual misconduct or physical abuse shall be deemed to have occurred when the first occurrence took place. We will also pay costs and expenses on your behalf.

However, we shall not make any payment under this **INSURING CLAUSE** where:

- the contract was made after the injury, advertising injury, damage, sexual misconduct or physical abuse occurred; or
- the injury, advertising injury, damage, sexual misconduct or physical abuse arose out of the third party's sole negligence.

INSURING CLAUSE 4: EMPLOYEE BENEFITS LIABILITY

We agree to pay on your behalf all sums which you become legally obliged to pay (including liability for claimants' costs and expenses) as a result of any claim first made against the company named as the Insured in the Declarations or any subsidiary and notified to us during the period of the policy arising out of any negligent act, error or omission committed by you or on your behalf in the administration of your employee benefit program. We will also pay costs and expenses on your behalf.

INSURING CLAUSE 5: GENERAL LIABILITY

We agree to pay on your behalf all sums which you become legally obliged to pay (including liability for claimants' costs and expenses) as a result of any claim arising out of:

- injury caused by an event other than by healthcare services; or
 - advertising injury; or
 - damage;
- occurring during the period of the policy in the course of your business activities. Where the injury, advertising injury or damage arises from continuous or repeated exposure to substantially the same general conditions, the injury, advertising injury or damage shall be deemed

to have occurred when the first exposure to those conditions took place.

We will also pay costs and expenses on your behalf.

For the avoidance of doubt, we will not make any payment under this **INSURING CLAUSE** in respect of a claim arising out of injury caused by healthcare services.

INSURING CLAUSE 6: TENANTS' LIABILITY

We agree to pay on your behalf all sums which you become legally obliged to pay (including liability for claimants' costs and expenses) as a result of any claim arising out of damage caused by fire, explosion, smoke or leaks from automatic fire protection systems to premises leased to, hired by, on loan to or held in trust by you or otherwise in your care, custody or control occurring during the period of the policy in the course of your business activities. We will also pay costs and expenses on your behalf.

INSURING CLAUSE 7: NON-OWNED AND HIRED AUTOMOBILE LIABILITY

We agree to pay on your behalf all sums which you become legally obliged to pay (including liability for claimants' costs and expenses) as a result of any claim arising out of injury or damage occurring during the period of the policy and caused by the use or operation of any automobile in the course of your business activities that is:

- a) not owned in whole or in part by, or licensed in the name of, the company named as the Insured in the Declarations; or
- b) leased or hired in the name of the company named as the Insured in the Declarations.

We will also pay costs and expenses on your behalf.

As a precedent to coverage under this **INSURING CLAUSE** you agree and warrant that all employees who operate an automobile in the course of your business activities will maintain in full force and effect for the period of the policy primary automobile liability insurance in an amount equal to or greater than the minimum primary automobile liability limits required in the state of registration of the automobile. If a claim is made and the employee is determined to have failed the minimum limits required then the coverage under this **INSURING CLAUSE** will respond as excess coverage as though the minimum limits were in full force and effect, whereby you agree to pay all sums within and up to the required minimum limit.

However, we shall not make any payment under this **INSURING CLAUSE** as a result of any claim arising out of injury or damage to a passenger of any automobile used in the course of your business activities.

INSURING CLAUSE 8: MEDICAL EXPENSES

We agree to pay medical expenses for injury caused by an accident occurring during the period of the policy:

- a) on premises you own or rent;
 - b) on ways next to premises you own or rent; or
 - c) because of your business activities;
- provided that:
- a) the injured person, at the time of the accident, is not entitled to benefits under any workers compensation or disability benefits law or similar law; and
 - b) the medical expenses are incurred and notified to us within one year of the date of the accident; and
 - c) the injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

We will make these payments regardless of fault.

INSURING CLAUSE 9: LOSS MITIGATION

We agree to pay any reasonable costs necessarily incurred by you with our prior written consent in respect of measures taken by you for the sole purpose of avoiding or mitigating a claim or potential claim for which you would be entitled to indemnity under any of **INSURING CLAUSES 1 to 7** of this Policy had such measures not been taken.

INSURING CLAUSE 10: COURT ATTENDANCE COSTS

We shall reimburse you for your reasonable costs (including legal representation costs) incurred with the prior written consent of the Claims Managers to attend court or any arbitration or adjudication hearing or inquiry in connection with your business activities.

INSURING CLAUSE 11: BRAND PROTECTION

We agree to pay costs reasonably incurred with our prior written consent on the services of a public relations consultancy for the purpose of averting or mitigating damage to any of your brands caused by a claim that is covered under any **INSURING CLAUSE** of this policy for which you have purchased coverage and that the Claims Managers have accepted under this Policy and that constitutes a newsworthy event.

The public relations consultancy shall be chosen by the Claims Managers who shall take into account the nature of the claim and the cost and quality of the services that they can deliver; unless you have reasonable cause to request a different public relations consultancy and the Claims Managers and you mutually agree upon such a company.

INSURING CLAUSE 12: INDEMNITY TO MORTGAGEES, LANDLORDS OR LESSORS OF LEASED EQUIPMENT

We agree to pay on behalf of any mortgagee, landlord or lessor of leased equipment of the company named as the Insured in the Declarations or any subsidiary all sums which they become legally obliged to pay (including liability for claimants' costs and expenses) in respect of claims arising solely out of your business activities, provided that had a claim been made against you then you would be entitled to indemnity under any of **INSURING CLAUSES 1 to 7** of this Policy.

The cover provided by this **INSURING CLAUSE** shall apply only where:

- a) you are required in a written contract to name the mortgagee, landlord or lessor of leased equipment as an additional Insured and where evidence of this requirement is on file with us, and
- b) the mortgagee, landlord or lessor of leased equipment has proved to our satisfaction that the claim arose solely out of your business activities.

INSURING CLAUSE 13: COMMERCIAL PROPERTY

We agree to reimburse you up to the amount insured shown in the Declarations for:

- a) the cost of repairing damage occurring during the period of the policy to your premises, including landlord's fixtures and fittings, walls, gates and fences, yards, car parks and pavements, piping, ducting, cables, wires and associated control gear and accessories on the premises and extending to the public mains but only to the extent of your responsibility;
- b) damage occurring during the period of the policy to contents of every description contained at your premises;
- c) damage occurring during the period of the policy to contents of every description kept at the home of your directors, officers, partners or employees in the course of your business activities;
- d) damage occurring during the period of the policy to contents of every description temporarily elsewhere, including while in transit;
- e) the necessary and reasonable costs you incur following damage occurring during the period of the policy to glass which belongs to you or for which you are legally responsible for:
 - i) temporary boarding up;
 - ii) repair of window frames or removal or replacement of fixtures and fittings in the course of replacing the glass;
 - iii) replacement lettering or other ornamental work and alarm foil on glass;
- f) damage occurring during the period of the policy to money held in the course of your business activities:
 - i) at your premises during business hours, in transit or in a Bank Night Safe;
 - ii) at your premises outside business hours in a locked safe;
 - iii) at the home of your directors, officers, partners or employees;

- g) **damage** occurring during the **period of the policy** to the personal belongings of **your employees** or visitors to **your premises** provided they are not covered under any other insurance;
- h) the reasonable cost of compiling the documents, books of account, drawings, card index systems or other records including film, tape, disc, drum, cell or other magnetic recording or storage media for electronic data processing that **you** need to continue **your business activities** if these items have been lost or distorted as a direct result of **damage** covered under this **INSURING CLAUSE**;
- a) the costs **you** incur to replace locks and keys necessary to maintain the security of **your premises** or safes following theft of keys involving force and violence occurring during the **period of the policy**;
- b) the amount of any rent for **your premises** which **you** are legally obliged to pay for any period during which **your premises** or any part of it is unusable as a result of **damage** covered under this **INSURING CLAUSE**.

We also agree to pay:

- a) **costs and expenses** on **your** behalf;
- b) compensation as shown in the Declarations if any of **your** directors, officers, partners or **employees** who are aged between 16 and 70 on the Inception Date shown in the Declarations suffers an **injury** in the course of **your business activities** in a robbery or attempted robbery and suffers:
- i) **death, permanent total disablement, loss of a limb or loss of sight** as a direct result of the **injury** within one year of the date of its occurrence;

- ii) **temporary total disablement**. The compensation for **temporary total disablement** will be the amount shown in the Declarations per week, for a maximum of 104 weeks.

However, we will not pay compensation under more than one heading in the Declarations for the same **injury**.

INSURING CLAUSE 14: BUSINESS INTERRUPTION

We agree to reimburse **you** up to the **amount insured** shown in the Declarations for **your loss of income, extra expense** and **accounts receivable** resulting solely and directly from an interruption to **your business activities** caused by:

- a) **insured damage** to **your premises** or **contents of every description** or to any other property used by **you** at **your premises**;
- b) **insured damage** to property in the vicinity of **your premises** which prevents or hinders **your access** to **your premises**;
- c) **insured damage** at the **premises** of one of **your** suppliers, other than a supplier of water; gas, electricity or telephone services;
- d) failure in the supply of water, gas, electricity, or telephone services to **your premises** for more than 24 consecutive hours caused by **insured damage** to any property;
- e) **your inability** to use **your premises** due to restrictions imposed by a public authority following:
- i) a murder or suicide;
- ii) an occurrence of a notifiable human disease;
- iii) **injury** traceable to food or drink consumed at **your premises**;
- iv) vermin or pests at **your premises**.

HOW MUCH WE WILL PAY

The maximum amount payable by us for all **claims, losses, damage, costs and expenses** and **medical expenses** shall not exceed the amounts shown in the Declarations in respect of each **INSURING CLAUSE** unless limited below.

Where more than one **claim, loss** or **medical expense** arises from the same original cause or single source or event all such **claims, losses** or **medical expenses** shall be deemed to be one **claim, loss** or **medical expense** and only one **limit of liability** shall be payable in respect of the aggregate of all such **claims, losses** or **medical expenses**.

Where cover is provided under multiple **SECTIONS** of **INSURING CLAUSE I** only one Limit of Liability shall be payable in respect of that **claim**.

We may at any time pay to **you** in connection with any **claim** the amount of the **aggregate limit of liability** or **limit of liability** (after deduction of any amounts already paid). Upon such payment being made we shall relinquish the conduct and control of and be under no further liability in connection with such **claim** except for the payment of **costs and expenses** incurred prior to the date of such payment (unless the **aggregate limit of liability** or **limit of liability** is stated to be inclusive of **costs and expenses**).

In respect of **INSURING CLAUSE 13** only:

- a) at **our** option, we will pay for any **damaged** property on the following basis:

- i) for **your premises**, the cost of rebuilding or replacing the **damaged** property;
- ii) for **contents of every description**, the cost of repair or replacement as new;
- b) if, at the time the **damage** occurs, the **amount insured** is less than 85% of the total value of the **premises** or **contents of every description** insured, the amount we will pay will be reduced in the same proportion as the **amount insured** bears to the total value of the **premises** or **contents of every description** insured;
- c) the **amount insured** for **your premises** and **contents of every description** will be adjusted monthly in line with any increase in nationally published indices. We will not reduce the **amount insured** without **your** consent.

In respect of **INSURING CLAUSE 14** the amount we will pay will be:

- a) the difference between **your actual income** during the **indemnity period** and the **income** it is estimated **you** would have earned during that period or, if this is **your** first trading year, the difference between **your income** during the **indemnity period** and during the period immediately prior to the **loss**, less any savings resulting from the reduced **costs and expenses** **you** pay out of **your income** during the **indemnity period**; and
- b) any additional **costs and expenses**; and
- c) any **accounts receivable**, provided **you** keep a record of all amounts owed to **you** and keep a copy of the record away from **your premises**.

YOUR DEDUCTIBLE

We shall only be liable for that part of each and every **claim, loss** or **medical expense** (which for the purpose of this clause shall be deemed to include all **costs and expenses** incurred) which exceeds the amount of the Deductible stated in the Declarations. Where more than one **claim, loss** or **medical expense** arises from the same original cause or single source or event all such **claims, losses** or **medical expenses** shall be deemed to be one **claim, loss** or **medical expense** and only one Deductible will apply.

If any expenditure is incurred by us which by virtue of this clause is **your** responsibility then **you** shall reimburse such amount to us on **our** request or where possible we will deduct such amount from any payment we make to **you**.

DEFINITIONS

1. "Accounts receivable"

means:

- a) all sums due to you from customers, provided you are unable to effect collection thereof as the direct result of **insured damage** to records of accounts receivable;
- b) interest charges on any loan to offset impaired collections pending repayment of such sums made uncollectible by such **insured damage**;
- c) collection expense in excess of normal collection cost and made necessary because of **insured damage**.

2. "Administration"

means:

- a) counseling **employees**, including their dependants and beneficiaries, with respect to **your employee benefit program**;
- b) handling records in connection with **your employee benefit program**;
- c) effecting enrolment or termination of any **employee's** participation in a plan included in **your employee benefit program**;
- d) interpreting **your employee benefit program**.

3. "Advertising injury"

means:

- a) oral or written publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- b) oral or written publication of material that violates a person's right of privacy;
- c) misappropriation of advertising ideas or style of doing business;
- d) infringement of copyright, title or slogan.

4. "Aggregate limit of liability"

means the maximum amount payable as stated in the Declarations by us in respect of all **claims**, or in respect of all accidents giving rise to **medical expenses**.

5. "Amount insured"

means the maximum amount payable by us as shown in the Declarations in respect of each of **INSURING CLAUSES 13** and **14**. The amount applies to each incident of **loss** or **damage** occurring during the **period of the policy** provided always that after the first incident of **loss** or **damage** you comply with our recommendations to prevent any further incidents of **loss** or **damage**.

6. "Business activities"

means the Business Activities as stated in the Declarations and shall include, for the purpose of those Business Activities:

- a) the ownership, repair and maintenance of **your** property; and
- b) provision and management of canteen, social, sports and welfare organisations for the benefit of **your** directors, officers, partners or **employees** and medical, fire fighting, and security services; and
- c) attendance at conferences and tradeshow as either an exhibitor or visitor; and
- d) **your** attendance at the premises of a **third party** or travel to or from the premises of a **third party**.

7. "Claim"

means a demand received by you for money or services, including the service of suit or institution of arbitration proceedings. "Claim" shall also mean a threat or initiation of a suit seeking injunctive relief (meaning a temporary restraining order or a preliminary or permanent injunction).

8. "Client"

means any **third party** with whom you have a formal written or implied contract for the supply of **your** professional services.

9. "Contents of every description"

means the contents of **your premises** used in connection with **your business activities** which are owned by you or for which you are legally responsible, including:

- a) computer and ancillary equipment (including monitors, keyboards, printers and software), television and video equipment, photographic, photocopying, surveying and telecommunications equipment;
- b) documents, briefs, manuscripts, plans, business books, computers systems records and programs;
- c) goods held in trust, stock and samples;
- d) wines, spirits and tobacco kept for entertainment purposes;
- e) works of art or precious metals;
- f) fixed glass in windows, doors and fanlights, glass showcases, glass shelves, mirrors and sanitary fixtures and fittings;
- g) heating oil for **your premises** contained in fixed tanks in the open at the address shown in the Declarations;
- h) tenant's improvements, decorations, fixtures and fittings including, if attached to the building, external signs, aerials and satellite dishes;
- i) pipes, ducting, cables, wires and associated control equipment at the address shown in the Declarations and extending to the public mains.

"Contents of every description" does not include **money** or the personal belongings of **your employees** or visitors to **your premises**.

10. "Costs and expenses"

means:

- a) in respect of **INSURING CLAUSES 1** to **12**:
 - i) your legal costs and expenses in the defence or settlement of any **claim** made against you; and
 - ii) the cost of bonds to release attachments but without any obligation to furnish these bonds; and
 - iii) interest on that part of any judgment we pay that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the **limit of liability**;
- b) in respect of **INSURING CLAUSES 13** and **14**, the costs and expenses incurred by you or on your behalf in establishing that you have sustained a **loss** or **damage** and the quantum of such **loss** or **damage** or the **costs and expenses** incurred by you or on your behalf in mitigating any such **loss** or **damage**;
- c) in respect of **INSURING CLAUSE 13** only, the necessary and reasonable costs and expenses you incur to remove debris from the **premises** or the area immediately adjacent, following **damage** covered under this **INSURING CLAUSE**.

Subject to all **costs and expenses** being incurred with the Claims Managers' written consent (such consent not to be unreasonably withheld).

If **costs and expenses** are shown in the Declarations to be in addition to the **aggregate limit of liability** or **limit of liability** in respect of any of **INSURING CLAUSES 1** to **12**, and if a payment in excess of the amount of indemnity available hereunder has to be made to dispose of any **claim** or number of **claims**, our liability for such **costs and expenses** shall be such proportion thereof as the amount of indemnity available hereunder bears to the amount required to dispose of such **claim** or **claims**.

Costs and expenses are always included in the **amount insured** in respect of **INSURING CLAUSES 13** and **14**.

11. "Damage"

means damage to, or destruction of, or loss of possession of, or loss of use of, or radioactive contamination of tangible property. For the avoidance of doubt, damage includes damage to, or destruction of, or loss of possession of, or loss of use of, or radioactive

- contamination of the property of a person to whom you are providing treatment or care services.
12. **"Employee"**
means any person employed by the company named as the Insured in the Declarations, or any **subsidiary**. Employee does not include any director, officer or partner of the company named as the Insured in the Declarations, or any **subsidiary**.
13. **"Employee benefit program"**
means group automobile insurance, group homeowners insurance, group life insurance, group dental insurance, group health insurance, profit sharing plans, pension plans, early retirement offerings, employee investment subscription plans, Workers' Compensation, Unemployment Insurance, Social Security, Disability Benefit Insurance, travel, savings or vacation plans or any similar benefit programs.
14. **"Extra expense"**
means the necessary and reasonable extra costs and expenses you incur in order to continue your business activities during the indemnity period.
15. **"Hacking attack"**
means any malicious or unauthorised electronic attack including but not limited to any fraudulent electronic signature, brute force attack, phishing, denial of service attack, that has been initiated by any **third parties** or by any **employees** and that is designed to **damage**, destroy, corrupt, overload, circumvent or impair the functionality of computer systems, software and ancillary equipment.
16. **"Healthcare services"**
means:
a) healthcare services rendered or required to be rendered by you in the treatment or care of any person; or
b) the provision by you of professional services to a **client** for a fee or where a fee would normally be expected to be paid; in the course of your business activities.
17. **"Income"**
means your total income from your business activities less direct costs.
18. **"Indemnity period"**
means the period beginning at the date of the **damage**, or the date the restriction is imposed, and lasting for the period during which your income or expenditure is affected as a result of such **damage** or restriction, but for no longer than the number of months shown in the Declarations.
19. **"Injury"**
means:
death, bodily injury, mental injury, illness, disease, shock, mental anguish or humiliation; and
a) false arrest, detention or imprisonment; and
b) malicious prosecution; and
c) wrongful entry into, or eviction of a person from, a room, dwelling or premises that the person occupies.
20. **"Insured damage"**
means damage to property provided that:
a) the **damage** is covered under **INSURING CLAUSE I3**; or
b) an insurer has paid the **claim**, or has agreed to pay the **claim**, under any other insurance covering such **damage**.
21. **"Limit of liability"**
means the maximum amount payable by us as stated in the Declarations in respect of each **claim** or **loss**, or in respect of each accident giving rise to **medical expenses**.
22. **"Loss of a limb"**
means loss by physical separation of a hand at or above the wrist, of a foot at or above the ankle, and includes total and irrecoverable loss of use of a hand, arm or leg.
23. **"Loss of sight"**
means total and irrecoverable loss of sight.
24. **"Loss"**
means direct financial **loss** sustained by you.
25. **"Medical expenses"**
means reasonable expenses for:
a) first aid administered at the time of an accident;
b) necessary medical, surgical, x ray and dental services, including prosthetic devices;
c) necessary ambulance, hospital, professional nursing and funeral services.
26. **"Money"**
means cash, bank and currency notes, cheques, travellers' cheques, postal orders, money orders, crossed bankers' drafts, current postage stamps, savings stamps and certificates, trading stamps, gift tokens, customer redemption vouchers, company sales vouchers, credit card counterfoils, travellers tickets and contents of franking machines, all belonging to you.
27. **"Newsworthy event"**
means an event that has been publicised through any media channel, including television, print media, radio or electronic networks, including the internet, electronic mail, and the world wide web.
28. **"Physical abuse"**
means:
a) death, bodily injury, mental injury, illness, disease, mental anguish, or shock caused deliberately by you;
b) the negligent employment, investigation, supervision, hiring, training or retention of a person for whom you are or were at any time responsible and who commits **physical abuse** as defined by a) above;
c) your negligent reporting, or your failure to report, to the proper authorities the conduct of a person for whom you are or were at any time responsible and who commits **physical abuse** as defined by a) above.
29. **"Premises"**
means the property (including any outbuildings) you occupy at the address shown in the Declarations as more fully described in the application form.
30. **"Period of the policy"**
means the period between the Inception Date shown in the Declarations and the Expiry Date shown in the Declarations or until the Policy is cancelled in accordance with **CONDITION 10** of this Policy.
31. **"Permanent total disablement"**
means disablement which entirely prevents the injured person from attending to any business or occupation for which he is reasonably suited by training, education or experience and which lasts for 24 calendar months and at the expiry of that period being beyond hope of improvement.
32. **"Sexual misconduct"**
means:
a) any welcome or unwelcome conduct, physical acts, gestures or spoken or written words of a sexual nature, including, but not limited to, sexual intimacy (even if consensual), sexual molestation, sexual assault, sexual battery, sexual abuse, sexual harassment, sexual exploitation or any sexual act;
b) the negligent employment, investigation, supervision, hiring, training or retention of a person for whom you are or were at any time responsible and who commits **sexual misconduct** as defined by a) above;
c) your negligent reporting, or your failure to report, to the proper authorities the conduct of a person for whom you are or were at any time responsible and who commits **sexual misconduct** as defined by a) above.
33. **"Subsidiary"**
means any company which the company named as the Insured in the Declarations controls through:
a) holding 50% or more of the voting rights; or

- b) having the right to appoint or remove 50% or more of its board of directors; or
 - c) controlling alone, pursuant to a written agreement with other shareholders or members, 50% or more of the voting rights therein.
34. **"Temporary total disablement"**
means disablement which entirely prevents the injured person from attending to his business or occupation.
35. **"Third party"**
means:
- a) any person who is not a director, officer, partner or employee of the company named as the Insured in the Declarations, or any subsidiary; or
 - b) a company other than the company named as the Insured in the Declarations, or any subsidiary.
36. **"Virus"**
means any malicious software code including but not limited to any logic bomb, Trojan horse or worm that has been introduced by any third parties or by any employees and that is designed to damage, destroy, corrupt, overload, circumvent or impair the functionality of computer systems, software and ancillary equipment.
37. **"We/our/us"**
means the Underwriters named in the Declarations.
38. **"You/your"**
means:
- a) the company named as the Insured in the Declarations, or any subsidiary; and
 - b) any past, present or future employee, trainee, director, officer or partner of the company named as the Insured in the Declarations or any subsidiary.

EXCLUSIONS

We will not:

- a) make any payment on your behalf for any claim; or
- b) incur any costs and expenses; or
- c) reimburse you for any loss, damage, legal expenses, fees or costs sustained by you; or
- d) pay any medical expenses:

EXCLUSIONS RELATING TO OTHER INSURANCES:

1. **Marine and aviation**
arising directly or indirectly from the ownership, possession or use by you or on your behalf of any aircraft, hovercraft, offshore installation, rig, platform or watercraft.
2. **Auto**
arising directly or indirectly from the ownership, possession or use by you or on your behalf of any motor vehicle or trailer other than injury or damage:
 - a) caused by the use of any tool or plant forming part of or attached to or used in connection with any motor vehicle or trailer;
 - b) occurring beyond the limits of any carriageway or thoroughfare and caused by the loading or unloading of any motor vehicle or trailer;
 - c) arising out of the use of any motor vehicle or trailer temporarily in your custody or control for the purpose of parking;
 - d) occurring beyond the limits of any carriageway or thoroughfare and caused by the use of any unlicensed vehicle, including but limited to snowmobiles and all terrain vehicles, in the course of your business activities;

provided always that we will not make any payment on your behalf or incur any costs and expenses in respect of any legal liability for which compulsory insurance or security is required by legislation or for which a government or other authority has accepted responsibility.

However, this **EXCLUSION** shall not apply in respect of **INSURING CLAUSE 7**.

3. **Employment practices**
arising out of or resulting from:
 - a) any employer-employee relations, policies, practices, acts, omissions, any actual or alleged refusal to employ any person, or misconduct with respect to employees; or
 - b) any acts or omissions committed by you or any of your directors, partners or employees to which are in breach of, or are alleged to be in breach of, any terms and conditions of contract relating to the previous employment of any of your directors, partners or employees.
4. **Employers' liability**
arising directly or indirectly out of injury to your directors, officers,

partners or employees.

5. **Directors' and officers'**
arising out of any personal liability incurred by your directors or officers when they are acting in that capacity or managing you, or arising from any statement, representation or information regarding your business contained within any accounts, reports or financial statements.
6. **Double insurance**
for which you are entitled to indemnity under any other insurance except for:
 - a) any additional sum which is payable over and above such other insurance; or
 - b) any contribution that we are obliged to make by law and that contribution shall be in proportion to the respective limits of liability or amounts insured of the Policies.

EXCLUSIONS RELATING TO THE CONDUCT OF YOUR BUSINESS:

7. **Advertising injury exclusions**
arising from advertising injury arising directly or indirectly out of:
 - a) oral or written publication of material, if done by you or directed by you, with your knowledge of its falsity;
 - b) oral or written publication of material whose first publication took place prior to the period of the policy;
 - c) the willful violation of a penal statute or ordinance by you or with your consent;
 - d) breach of contract, other than misappropriation of advertising ideas under an implied contract;
 - e) the failure of goods, products, or services to conform with advertised quality or performance;
 - f) the wrong description of the price of goods, products or services;
 - g) the activities of a subsidiary whose principal business activity is advertising, broadcasting, publishing or telecasting.
8. **Automobile use without owner's consent**
arising out of or relating directly or indirectly to the use by you of any automobile or trailer without the consent of the owner:
9. **Benefit laws**
arising directly or indirectly out of your failure to comply with the mandatory provisions of any law concerning workers compensation, unemployment insurance, social security, disability benefits or pension benefits.
10. **Circumstances known at inception**
arising out of any circumstances or occurrences which could give rise to a claim, loss or damage under this Policy or any accidents giving rise to medical expenses of which you are aware, or ought reasonably to be aware, prior to the Inception Date of this Policy,

whether notified under any other insurance or not.

11. **Commercial passenger vehicles**
arising out of or relating directly or indirectly to the use by you of a commercial passenger vehicle including, but not limited to, a coach, bus or minibus, or any other vehicle containing 9 (nine) or more people.
12. **Computer failure**
in respect of **INSURING CLAUSES 13** and **14** only, arising directly or indirectly from loss or distortion of your data or damage to your electrical or mechanical plant resulting from a failure of your computer or ancillary equipment (including monitors, keyboards, printers or software), television or video equipment, photographic, photocopying, surveying or telecommunications equipment. However, we will reimburse you up to the amount insured for damage occurring during the period of the policy to your computer and ancillary equipment, but only if your computer and ancillary equipment is subject to a manufacturer's guarantee or a maintenance contract providing free parts and labour in the event of a breakdown.
13. **Criminal acts**
arising out of any wilful, criminal or fraudulent act or omission committed by you, other than in respect of **INSURING CLAUSE 2**.
14. **Employee benefit program advice**
arising directly or indirectly from:
 - a) advice given to any person to participate or not to participate in any plan included in your employee benefit program;
 - b) the failure of any investment to perform as represented by you.
15. **ERISA**
arising out of or resulting from your acts related to any pension, healthcare, welfare, profit sharing, mutual or investment plans, funds or trusts; or any violation of any provision of the Employee Retirement Income Security Act of 1974, or any amendment to the Act or any violation of any regulation, ruling or order issued pursuant to the Act.
16. **Faulty workmanship**
arising from damage to your premises caused directly or indirectly by misuse, inadequate or inappropriate maintenance, faulty workmanship, defective design, the use of faulty materials or whilst being cleaned, worked on or maintained.
17. **Hazardous devices**
arising directly or indirectly from any product which with your knowledge is intended for incorporation into the structure, machinery or controls of any aircraft, other aerial device, military vehicle, hovercraft, waterborne craft or any medical equipment.
18. **Legal Action**
where action for damages is brought in a court of law outside the territories specified in the Declarations, or where action is brought in a court of law within those territories to enforce a foreign judgment whether by way of reciprocal agreement or otherwise.
19. **Limiting recovery rights**
arising directly or indirectly out of your failure to take reasonable steps to ensure that our rights of recovery against any third party are not unduly restricted or financially limited by a specific term in any contract or agreement.
20. **Liquor liability**
arising directly or indirectly from the provision of alcoholic beverages by you.
21. **Medical services whilst unlicensed or unregistered**
arising directly or indirectly out of services (including administration services) rendered or required to be rendered by you in the treatment or care of any person whilst the professional license or registration required to enable you to conduct your business activities was suspended, revoked, surrendered or otherwise terminated.
22. **Patents**
arising out of the actual or alleged infringement of any patent or inducing the infringement of any patent.

23. Product liability

arising directly or indirectly from a defective product other than, in respect of **INSURING CLAUSE 1**, arising directly from a drug or other pharmaceutical product dispersed by a pharmacist you provide.

24. Professional boards

arising directly or indirectly out of your acts, errors or omissions as a member of a formal accreditation or similar professional board or committee.

25. Retroactive Date

in respect of **INSURING CLAUSES 1** to **4** only, arising out of any event or actual or alleged wrongful act occurring, in whole or in part, before the date specified as the Retroactive Date in the Declarations.

26. RICO

for or arising out of any actual or alleged violation of the Organised Crime Control Act of 1970 (commonly known as the Racketeer Influenced and Corrupt Organization Act or RICO), as amended, or any regulation promulgated thereunder or any similar federal, state or local law, whether such law is statutory, regulatory or common law.

27. SEC

for any actual or alleged violation of any of the provisions of the Securities Act of 1933, the Securities Exchange Act 1934 or any similar regional, provincial, territorial, federal or State law or any common law relating thereto.

28. Unjust enrichment

other than in respect of **INSURING CLAUSES 13** and **14**, for that part of any claim that results in you being in a better financial position as a direct result of the act or omission which gave rise to the claim than you would have been if you had not committed the act or omission.

GENERAL INSURANCE EXCLUSIONS:

29. Antitrust

for or arising out of any actual or alleged antitrust violation, restraint of trade, unfair competition, false, deceptive or unfair trade practices, violation of consumer protection laws or false or deceptive advertising unless insurable under the applicable law.

30. Asbestos

arising from or contributed to by the manufacturing, mining, use, sale, installation, removal, distribution of or exposure to asbestos, materials or products containing asbestos, or asbestos fibres or dust, unless arising directly from an act or omission committed by you:

- a) on or after 1st January 1990; or
 - b) on or after the date specified as the Retroactive Date in the Declarations;
- whichever is the later; in the course of your business activities.

31. Associated companies

- a) in respect of any claim made by any company firm or partnership in which the company named as the Insured in the Declarations has an executive or financial interest, unless such claim emanates from an independent third party; or
- b) in respect of any claim made by any company firm partnership or individual which has an executive or financial interest in the company named as the Insured in the Declarations or any subsidiary, unless such claim emanates from an independent third party; or
- c) arising out of or resulting from any of your activities as a trustee, partner, officer, director or employee of any employee trust, charitable organization, corporation, company or business other than that of the company named as the Insured in the Declarations or any subsidiary; or
- d) in respect of any claim made by or on behalf of the company named as the Insured in the Declarations or any subsidiary.

32. Earthquake

in respect of **INSURING CLAUSES 13** and **14** only, caused by earthquake, except for:

- a) ensuing loss or damage which results directly from fire,

- explosion, smoke or leakage from fire protective equipment; or
- b) ensuing **damage to contents of every description** while in transit.
33. **Electromagnetic fields**
directly or indirectly arising out of, resulting from or contributed to by electromagnetic fields, electromagnetic radiation, electromagnetism, radio waves or noise.
34. **Flood**
in respect of **INSURING CLAUSES 13 and 14** only, caused by flood, including waves, tides, tidal waves, or the rising of, the breaking out, or the overflow, of any body of water whether natural or manmade, but this **EXCLUSION** does not apply to:
- ensuing **loss or damage** which results directly from fire, explosion, smoke or leakage from fire protective equipment; or
 - ensuing **damage to contents of every description** while in transit.
35. **Fines**
for fines, penalties, civil or criminal sanctions and for punitive, multiple or exemplary damages unless insurable under the applicable law.
36. **Insolvency**
arising out of or relating directly or indirectly from **your** insolvency or bankruptcy, or the insolvency or bankruptcy of any **third party**. Furthermore, no coverage is provided under **INSURING CLAUSE 14** if **you** become insolvent or bankrupt.
37. **Land or water**
arising directly or indirectly from **damage** to land or water within or below the boundaries of any land or **premises** presently or at any time previously owned or leased by **you** or otherwise in **your** care, custody or control.
38. **Miscellaneous property exclusions**
in respect of **INSURING CLAUSES 13 and 14** only, arising directly or indirectly from:
- wear and tear; inherent defect, rot, vermin or infestation, or any gradually operating cause;
 - dryness or humidity, being exposed to light or extreme temperatures, unless the **damage** is caused by storm or fire;
 - coastal or river erosion;
 - theft from an unattended vehicle unless the item is out of sight;
 - frost, other than **damage** due to water leaking from burst pipes forming part of the permanent internal plumbing provided **your premises** are occupied and in use;
 - arising directly or indirectly from unexplained loss or disappearance or inventory shortage of **your** property;
 - a **hacking attack or virus**.
39. **Named windstorms**
in respect of **INSURING CLAUSES 13 and 14** only, caused:
- directly or indirectly by a windstorm which is given a name by the National Hurricane Center, Miami, FL, regardless of any other cause or event that contributes concurrently or in any sequence to the **loss or damage**; or
 - by rain, snow, sand or dust, whether driven by wind or not, if that **loss or damage** would not have occurred but for a windstorm which is given a name by the National Hurricane Center, Miami, FL. But if the windstorm results in a cause of **loss or damage** other than rain, snow, sand or dust, and that resulting cause of **loss or damage** is not otherwise excluded under this Policy, we will pay for that **loss or damage**. For example, if the windstorm damages a heating system and fire results, the **loss or damage** attributable to the fire is covered subject to any other applicable policy provisions.
40. **Nuclear**
arising directly or indirectly from or contributed to by:
- ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel;
 - the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

41. Pollution

arising directly or indirectly out of:

- pollution or contamination of the atmosphere, or of any water, land, buildings or other property;
- any enforcement action in connection with the containment, clean-up, removal or treatment of such pollution or contamination;

but this **EXCLUSION** shall not apply in respect of:

- INSURING CLAUSE I, SECTION B**; or
- premises** leased to, hired by, on loan to or held in trust by **you** or otherwise in **your** care, custody or control in respect of:
 - injury** caused by smoke, fumes, vapor or soot from equipment used to heat the building; or
 - injury or damage** arising out of heat, smoke or fumes from a **hostile fire**. For the purpose of this **EXCLUSION** a **hostile fire** means one which becomes uncontrollable or breaks out from where it was intended to be;
- INSURING CLAUSES 13 and 14** to the backing up of sewers, sumps, septic tanks or drains.

42. Toxic mold / fungus

arising directly or indirectly from any **loss, injury, damage**, costs or expenses, including, but not limited to, **losses, damage**, costs or expenses related to, arising from or associated with clean-up, remediation, containment, removal or abatement, caused directly or indirectly, in whole or in part, by:

- any **fungus, mold, mildew or yeast**; or
- any **spore** or toxins created or produced by or emanating from such **fungus, mold, mildew or yeast**; or
- any substance, vapour, gas, or other emission or organic or inorganic body or substance produced by or arising out of any **fungus, mold, mildew or yeast**; or
- any material, product, building component, building or structure, or any concentration of moisture, water or other liquid within such material, product, building component, building or structure, that contains, harbours, nurtures, or acts as a medium for any **fungus, mold, mildew, yeast or spore** or toxins emanating therefrom;

regardless of any other cause, event, material, product or building component that contributed concurrently or in any sequence to that **loss, injury, damage**, cost or expense.

However, this **EXCLUSION** shall not apply in respect of **INSURING CLAUSES 1 or 3** where the **loss, injury, damage**, costs or expenses arose directly from an act or omission committed by **you** in the course of **your business activities**.

For the purposes of this **EXCLUSION** the following definitions are added to the Policy:

Fungus includes, but is not limited to, any plants or organisms belonging to the major group Fungi, lacking chlorophyll, and including **molds, rusts, mildews, smuts and mushrooms**.

Mold includes, but is not limited to, any superficial growth produced on damp or decaying organic matter or on living organisms, and fungi that produced moulds.

Spore means any dormant or reproductive body produced by or arising from or emanating out of any **fungus, mold, mildew, plants, organisms or microorganisms**.

43. Trade Debt

arising out of or in connection with any trading losses or trading liabilities incurred by any business managed or carried on by **you**, or any **loss of your profit** arising from the **loss of any client, account or business**.

44. War and terrorism

directly or indirectly caused by, resulting from or in connection with any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the **claim, loss, damage, costs and expenses or medical expenses**:

- war, invasion, acts of foreign enemies, hostilities or warlike

operations (whether war be declared or not), civil war, rebellion, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power; or

- b) any act of terrorism.

For the purpose of this **EXCLUSION** an act of terrorism means an act, including but not limited to the use of force or violence or the threat thereof, of any person or groups of persons, whether acting alone or on behalf of or in connection with any organisations or governments, committed for political, religious, ideological or similar

purposes including the intention to influence any government or to put the public, or any section of the public, in fear.

This **EXCLUSION** also excludes claims, losses, damage, costs and expenses or medical expenses of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to a) or b) above.

This **EXCLUSION** does not apply to any claim or loss arising directly from a hacking attack or virus.

CONDITIONS

1. What you must do in the event of a claim or loss

Should any director, partner, or senior executive officer of the company named as the Insured in the Declarations and any subsidiary become aware of any claim, loss or damage or of any situation that could give rise to a claim or loss or should an allegation, complaint or claim be made or intimated against you, the following obligations must be complied with by you:

- a) You must not admit liability for or settle or make or promise any payment in respect of any claim, loss or damage which may be covered under this Policy. Neither must you incur any costs or expenses in connection with such a claim, loss or damage without our written consent. However, you should arrange for any urgent repairs following damage covered under **INSURING CLAUSE 13** to be done immediately. Before any other repair work begins we have the right to inspect your damaged property. We will notify you if we intend to do this.
- b) The Claims Managers, as specified in the Declarations, must be notified as soon as is reasonably possible and in any event within 75 days if during the period of the policy:
 - i) you suffer any loss or damage that could be covered by this Policy or any allegation, complaint or claim is made or intimated against you, whether verbal or made in writing;
 - ii) any director, partner, or senior executive officer of the company named as the Insured in the Declarations and any subsidiary become aware of the intention of any person to make a complaint, allegation or claim against you, whether verbal or in writing. Once notice has been made to us, we will regard any subsequent claim that may arise as notified under this Policy;
 - iii) you become aware of an action of yours that could give rise to a loss, allegation, complaint or claim being made or intimated against you. Once notice has been made we will regard any subsequent claim that may arise as notified under this Policy;
 - iv) you discover reasonable cause for suspicion of fraud or dishonesty whether this could give rise to a claim under this Policy or not and we shall not be liable under this Policy for any claim or loss sustained in consequence of any fraudulent or dishonest act or omission committed after the date of such discovery.

We have nominated Claims Managers to accept notice on our behalf.

Due to the nature of the coverage offered by this Policy, any unreasonable delay by any director, partner, or senior executive officer of the company named as the Insured in the Declarations and any subsidiary in notifying the Claims Managers of (i), (ii), (iii) or (iv) above could lead to the size of the claim, loss or damage increasing or to our rights being restricted. We shall not be liable for that portion of any claim that is due to any unreasonable delay in any director, partner, or senior executive officer of the company named as the Insured in the Declarations and any subsidiary notifying the Claims Managers of any claim, loss or damage in accordance

with this **CONDITION**.

- c) We will expect you to provide us with full and accurate information about any matter that you notify to us under your obligations set out above. Once notice has been made you must give the Claims Managers all the assistance and information that is reasonably required. You must follow their advice and do anything that they reasonably require you to do to avoid, minimise, settle or defend any claim, loss or damage.

If you think a crime has been committed you must report it to the appropriate law enforcement authorities. You must also permit the Claims Managers and any other parties that are appointed by the Claims Managers to notify the appropriate law enforcement authorities of any claim, loss or damage where this action is deemed necessary, and you must comply with the advice given by such authorities.

If any of your computer or ancillary equipment is lost or stolen while it is temporarily removed from your premises, we will not make any payment unless you report the loss to the police within 48 hours after you become aware of it.

2. Continuous cover

If you have neglected, through error or oversight only, to report a claim made against you during the period of a previous renewal of this Policy issued to you by us, then provided that you have maintained uninterrupted insurance of the same type with us since the expiry of that earlier Policy, then, notwithstanding **EXCLUSION 10**, we will permit the matter to be reported under this Policy and will indemnify you, provided that:

- a) the indemnity will be subject to the applicable aggregate limit of liability or limit of liability of the earlier Policy under which the matter should have been reported or the aggregate limit of liability or limit of liability of the current Policy, whichever is the lower;
- b) we may reduce the indemnity entitlement by the monetary equivalent of any prejudice which has been suffered as a result of the delayed notification;
- c) the indemnity will be subject in addition, to all of the terms, **CONDITIONS, DEFINITIONS and EXCLUSIONS**, other than the aggregate limit of liability or limit of liability, contained in this current Policy.

3. Fraudulent claims

If you notify us of any claim knowing that claim to be false or fraudulent in any way, we shall have no responsibility to pay that claim or any other claims under this insurance and the Policy will be treated as if it had not been effected.

4. Agreement to pay claims

We have the right and duty to take control of and conduct in your name the investigation settlement or defence of any claim. We shall also pay on your behalf costs and expenses incurred with our prior written consent (subject to the Limits of Liability and applicable Deductible shown in the Declarations) provided that we shall not:

- a) pay for the costs and expenses of any part of a claim that is not covered by this Policy;
- b) incur any costs and expenses in the defence of any claim

unless there is a reasonable prospect of success, taking into account the commercial considerations of the costs of defence.

We shall always endeavour to settle any **claim** through negotiation, mediation or some other form of alternative dispute resolution and shall pay on **your** behalf the amount so agreed by us and the claimant. If we cannot settle by such means, we shall pay the amount which **you** are found liable to pay either in court or through arbitration proceedings, subject always to the Limit of Liability shown in the Declarations.

If **you** refuse to consent to a settlement that we recommend and that the claimant will accept, **you** must then defend, investigate or settle the **claim** at **your** own expense. As a consequence of **your** refusal, our liability for any **claim** shall not be more than the amount that we could have settled the **claim** had **you** consented, plus any costs and expenses incurred prior to the date of such refusal.

5. Innocent non-disclosure

We will not seek to avoid the Policy or reject any **claim** on the grounds of non-disclosure or misrepresentation except where the non-disclosure or misrepresentation was reckless or fraudulent or **you** failed to conduct a full enquiry prior to providing the information that forms the basis of this insurance. In the event that we seek to avoid the Policy or reject any **claim** on this basis the burden of proving otherwise rests solely with **you**.

6. Your duty to advise us of changes

If **you** become aware that any of the information that **you** have given us in the Application Form or elsewhere in connection with **your** application for this insurance has materially changed then **you** must advise us as soon as is practicable. In this event, we reserve the right to amend the terms, conditions or premium of the Policy.

7. Risk management conditions

If we attach any additional conditions to **your** Policy regarding any risk survey or risk management timetable or any other similar conditions then it is **your** responsibility to ensure that these conditions are complied with by the deadlines shown in the conditions.

8. Our rights of recovery

If any payment is made under this Policy in respect of a **claim**, loss or damage and there is available to us any of **your** rights of recovery against any other party then we maintain all such rights of recovery. We shall not exercise these rights against any past, present or future employee, director, officer or partner of the company named as the Insured in the Declarations or any subsidiary, unless such payment is in respect of any wilful, malicious or dishonest acts or omissions.

You must do nothing to impair any rights of recovery. At our request **you** will bring proceedings or transfer those rights to us and help us to enforce them. Any recoveries shall be applied as follows:

- first, to us up to the amount of our payment on **your** behalf including costs and expenses;
- then to **you** as recovery of **your** Deductible or other amounts paid as compensation or costs and expenses.

9. Waiver of subrogation

Notwithstanding **CONDITION 8** above we agree to waive our rights of subrogation against a responsible third party client of **yours** but only if **you** and **your** client have entered into a contract that contains a provision requiring us to do this.

10. Cancellation

This Policy may be cancelled:

- by **you** at any time on request; or
- by us if we give **you** 30 (thirty) days written notice, or
- by us if we give **you** 15 (fifteen) days written notice, should any amount in default not be paid within 15 (fifteen) days of the due date shown in the Debit Note that accompanies this Policy.

If **you** give us notice of cancellation in accordance with a) above, the earned Premium shall be computed at pro rata to the number of days that the Policy is in effect subject to a minimum amount of thirty percent (30%) of the Premium.

If we give **you** notice of cancellation in accordance with b) or c)

above, the Premium shall be computed at pro rata to the number of days that the Policy is in effect.

The Policy Administration Fee shall be deemed fully earned upon inception of the Policy.

11. Prior subsidiaries

Should an entity cease to be a subsidiary after the Inception Date of this Policy, cover in respect of such entity shall continue as if it was still a subsidiary, until the termination of this Policy, but only in respect of any **claim** or loss that arises out of any act, error or omission committed by that entity prior to the date that it ceased to be a subsidiary.

12. Mergers and acquisitions

During the period of the policy, if the company named as the Insured in the Declarations or any subsidiary:

- purchases assets or acquires liabilities from another entity in an amount greater than 10% of the assets of the company named as the Insured in the Declarations as listed in its most recent financial statement; or
- acquires another entity whose annual revenues are more than 10% of the annual revenues of the company named as the Insured in the Declarations for their last completed financial year;

then **you** shall have no coverage under this Policy for any **claim**, loss or damage that arises directly or indirectly out of the purchased or acquired entity unless the company named as the Insured in the Declarations gives us written notice prior to the purchase or acquisition, obtains our written consent to extend coverage to such additional entities, assets or exposures, and agrees to pay any additional premium required by us.

If during the period of the policy the company named as the Insured in the Declarations consolidates or merges with or is acquired by another entity, then all coverage under this Policy shall terminate at the date of the consolidation, merger or acquisition unless we have issued an endorsement extending coverage under this Policy, and the company named as the Insured in the Declarations has agreed to any additional premium and terms of coverage required by us.

13. Extended reporting period

In respect of **INSURING CLAUSES 1** to **4** only, an Extended Reporting Period of 60 days following the Expiry Date as shown in the Declarations shall be automatically granted hereunder at no additional premium. Such Extended Reporting Period shall cover **claims** first made against **you** during the period of the policy and reported to us during this 60 day Extended Reporting Period but only in respect of any act, error or omission committed prior to the Expiry Date shown in the Declarations, and subject to all other terms, conditions and exclusions of the policy. No **claim** shall be accepted by us in this 60 day Extended Reporting Period if **you** are entitled to indemnity under any other insurance, or would have been entitled to indemnity under such insurance but for the exhaustion thereof.

14. Optional extended reporting period

In respect of **INSURING CLAUSES 1** to **4** only, in the event of:

- cancellation or non-renewal of this Policy by us; or
- cancellation or non-renewal of this Policy by **you** because **you** have ceased to trade as the direct result of the retirement or death of all of **your** directors, officers or partners;

then **you** shall have the right, upon payment of the Optional Extended Reporting Period Premium shown in the Declarations in full and not proportionally or otherwise in part, to have issued an endorsement providing a 365 day Optional Extended Reporting Period from the cancellation or non-renewal date. Such Optional Extended Reporting Period shall cover **claims** first made against the company named as the Insured in the Declarations or any subsidiary and notified to us during this Optional Extended Reporting Period but only in respect of any **claim** arising out of any act, error or omission committed prior to the date of cancellation or non-renewal, and subject to all other terms, conditions and exclusions of the policy.

In order for you to invoke the Optional Extended Reporting Period option, the payment of the Optional Extended Reporting Period Premium shown in the Declarations for this Optional Extended Reporting Period must be paid to us within 15 days of the date of the non-renewal or cancellation.

At the commencement of this Optional Extended Reporting Period the entire premium shall be deemed earned and in the event that you terminate the Optional Extended Reporting Period for any reason prior to its natural expiration, we will not be liable to return any premium paid.

The right to the Extended Reporting Period or the Optional Extended Reporting Period shall not be available to you where:

- a) Cancellation or non-renewal by us is due to non-payment of premium; or
- b) Cancellation or non-renewal by us is due to your failure to pay such amounts in excess of the applicable Limit of Liability or within the amount of the applicable Deductible as is required by this Policy in the payment of claims.

At the renewal of this Policy, our quotation of different premium, Deductible or Limit of Liability or changes in policy language shall not constitute non-renewal by us for the purposes of granting this Optional Extended Reporting Period.

In no event shall the granting of the Extended Reporting Period or the Optional Extended Reporting Period increase the limit of liability or aggregate limit of liability.

15. Choice of law, legal action and service of suit

In the event of a dispute between you and us regarding this Policy, the same shall be governed by the laws of the State of the United States of America shown in the Choice of Law section of the

Declarations. We agree, at your request, to submit to the jurisdiction of a Court of competent jurisdiction within the United States of America.

Nothing in this **CONDITION** constitutes or should be understood to constitute a waiver of our rights to commence an action in any Court of competent jurisdiction in the United States of America, to move an action to a United States District Court, or to seek a transfer of a case to another Court as permitted by the laws of the United States of America or the laws of any State of the United States of America.

It is further agreed that service of process in such suit may be made upon Mendes & Mount LLP at the address shown in the Declarations and that in any suit instituted against us, we will abide by the final decision of such Court or of any Appellate Court in the event of an appeal. Mendes & Mount LLP are authorized and directed to accept service of process on our behalf in any such suit and, at your request, to give a written undertaking to you that they will enter a general appearance on our behalf in the event such a suit is instituted.

Additionally, in accordance with the statute of any state, territory or district of the United States which makes such a provision, we hereby designate the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute, or his successor or successors in office, as our true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by you arising out of this Policy. Mendes & Mount LLP are hereby designated as the firm to whom the above-mentioned officer is authorized to mail such process or a copy thereof.